

REMARKS

Claims 1, 2, 5, 8, 9, 19, and 22 are currently pending in the application.

Claims 1, 2, 5, 8, 9, 19, and 22 stand rejected.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent 4,551,717 to Dreher

Claims 1, 2, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreher (U.S. Patent 4,551,717). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant asserts that the Dreher reference does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the claimed inventions of independent claims 1, 8, and 9 because the Dreher reference, at the least, does not teach or suggest all the claim limitations of the claimed inventions. Applicant asserts that Dreher reference has no description whatsoever of the elements of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality, each key cap having at least one identifying graphic symbol formed on an upper surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", "a second luminescent material different than the first material forming the identifying graphic symbol, the second luminescent material embedded within each key cap substantially throughout", "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having luminescent material embedded there within of a first material and having at

least one identifying graphic symbol formed thereon of a second material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material”, and “a second luminescent material embedded within each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key cap” .

The Dreher reference merely describes a key having an LCD or LED display therein. Nothing in the Office Action has been cited to teach or suggest the claim limitations not taught or suggested by the Dreher reference. It is only speculated as to where such claim limitations may be taught or suggested since the Dreher reference is devoid of any such teachings or suggestions. Such is not the presently claimed inventions of amended independent claims 1, 8, and 9. Accordingly, the Dreher reference does not and cannot anticipate the inventions of presently amended independent claims 1, 8, and 9. Therefore, such claims are allowable.

Obviousness Rejection Based on U.S. Patent 4,551,717 to Dreher in View of U.S. Patent 4,205,522 to Takami

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreher (U.S. Patent 4,551,717) in view of Takami (U.S. Patent 4,205,522). Applicant respectfully traverses this rejection, as hereinafter set forth.

Applicant yet again asserts that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicant asserts that any combination of the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of presently amended independent claim 5 because, at the very least, the proposed combination of cited prior art does not teach or suggest all the claim limitations of the presently amended

independent claim 5, and any rejection of presently amended independent claim 5 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the combination of the cited prior art.

First, the proposed combination of the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality, each key cap having at least one identifying graphic symbol formed on an upper surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", "a second luminescent material different than the first material forming the identifying graphic symbol, the second luminescent material embedded within each key cap substantially throughout", "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having luminescent material embedded there within of a first material and having at least one identifying graphic symbol formed thereon of a second material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", and "a second luminescent material embedded within each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key cap" .

As set forth above, the Dreher reference is directed to a key having a LCD or LED display. The Takami reference is directed to a key having a LCD display using a luminescent phosphor. Clearly, such keys do not and cannot teach such claim limitations that are in the presently claimed inventions of presently amended independent claim 5.

Additionally, Applicant asserts that any rejection of the presently claimed invention of presently amended independent claim 5 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the cited prior art. Such a rejection is neither within the ambit nor purview of 35 U.S.C. § 103 and, clearly, improper. Such a rejection is clearly a hindsight reconstruction of Applicant's claimed invention based solely upon Applicant's disclosure because the proposed combination of the cited prior art fails to teach or suggest the claim

limitations of the presently claimed invention. Accordingly, solely Applicant's disclosure is being used for any such rejection. Therefore, presently amended independent claim 5 is allowable.

Obviousness Rejection Based on U.S. Patent 4,551,717 to Dreher and U.S. Patent 4,205,522 to Takami, in View of U.S. Patent 6,507,763 to Schneider et al., and Further in View of U.S. Patent 4,451,714 to Eventoff

Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreher (U.S. Patent 4,551,717) and Takami (U.S. Patent 4,205,522), in view of Schneider et al. (U.S. Patent 6,507,763), and further in view of Eventoff (U.S. Patent 4,451,714). Applicant respectfully traverse this rejection, as hereinafter set forth.

Applicant yet again asserts that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicant asserts that any combination of the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of presently amended independent claim 22 because, at the very least, the proposed combination of cited prior art does not teach or suggest all the claim limitations of the presently amended independent claim 19, and any rejection of presently amended independent claim 19 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the combination of the cited prior art.

First, the proposed combination of the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having at least one identifying

graphic symbol formed on a surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material” and “a second luminescent material including tritium embedded within said at least one symbol of each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key”.

As set forth above, the Dreher reference is directed to a key having a LCD or LED display. The Takami reference is directed to a key having a LCD display using a luminescent phosphor. . The Schneider et al. reference teaches a radio frequency keyboard using battery power. The Eventoff reference teaches keyboard switch assembly having insulation over the circuit traces. Clearly, any combination of the cited prior art does not and cannot teach or suggest the claim limitations of the presently claimed invention of presently amended independent claim 22. Therefore, presently amended independent claim 22 is allowable.

Obviousness Rejection Based on U.S. Patent 5,936,554 to Stanek in View of U.S. Patent 4,551,717 to Dreher, U.S. Patent 6,507,763 to Schneider et al., and U.S. Patent 4,451,714 to Eventoff

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Stanek (U.S. Patent 5,936,554), in view of Dreher (U.S. Patent 4,551,717), Schneider et al. (U.S. Patent 6,507,763), and Eventoff (U.S. Patent 4,451,714). Applicant respectfully traverse this rejection, as hereinafter set forth.

Applicant again asserts that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant’s disclosure.

Applicant asserts that any combination of the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of

presently amended independent claim 19 because, at the very least, the proposed combination of cited prior art does not teach or suggest all the claim limitations of the presently amended independent claim 19, and any rejection of presently amended independent claim 19 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the combination of the cited prior art.

First, the proposed combination of the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having at least one identifying graphic symbol formed on a surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material" and "a second luminescent material embedded within a portion of each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key" .

The Stanek reference teaches an illuminated key. The Schneider et al. reference teaches a radio frequency keyboard using battery power. The Eventoff reference teaches keyboard switch assembly having insulation over the circuit traces. Clearly, any combination of the cited prior art does not and cannot teach or suggest the claim limitations of the presently claimed invention of presently amended independent claim 19. Therefore, presently amended independent claim 19 is allowable as well as dependent claim 20 therefrom.

Additionally, Applicant asserts that any rejection of the presently claimed invention of presently amended independent claim 19 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the cited prior art. Such a rejection is neither within the ambit nor purview of 35 U.S.C. § 103 and, clearly, improper. Such a rejection is clearly a hindsight reconstruction of Applicant's claimed invention based solely upon Applicant's disclosure because the proposed combination of the cited prior art fails to teach or suggest the claim limitations of the presently claimed invention. Accordingly, solely Applicant's disclosure is being used for any such rejection. Therefore, presently amended independent claim 19 is allowable as well as dependent claim 20 therefrom.

ENTRY OF AMENDMENTS

Applicant requests entry of this amendment for the following reasons:

The amendment is timely filed.

The amendment does not require any further search or consideration.

The amendment places the application in condition for allowance.

CONCLUSION

Claims 1, 2, 5, 8, 9, 19, and 22 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,



James R. Duzan
Registration No. 28,393
Attorney for Applicant
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: January 14, 2005

JRD/nj:lmh

Document in ProLaw